

existing class exemptions. The Board may deny a request for a class exemption without seeking public comments.

(d) Exemption petitions containing proposals that are directly related to and concurrently filed with a primary application will be considered along with that primary application.

(e) Unless otherwise specified in the decision, an exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions for reconsideration or petitions to reopen under 49 CFR part 1115 or 49 CFR 1152.25(e) must be filed within 20 days of the service date.

(f) Petitions to revoke an exemption or the notice of exemption may be filed at any time. The person seeking revocation has the burden of showing that the revocation criteria of 49 U.S.C. 10502(d) have been met.

(g) In abandonment exemptions, petitions to revoke in part to impose public use conditions under 49 CFR 1152.28, or to invoke the Trails Act, 16 U.S.C. 1247(d), may be filed at any time prior to the consummation of the abandonment, except that public use conditions may not prohibit disposal of the properties for any more than the statutory limit of 180 days after the effective date of the decision granting the exemption.

(h) In transactions for the acquisition or operation of rail lines by Class II rail carriers under 49 U.S.C. 10902, the exemption may not become effective until 60 days after applicant certifies to the Board that it has posted at the workplace of the employees on the affected line(s) and served a notice of the transaction on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred.

[61 FR 52714, Oct. 8, 1996, as amended at 61 FR 58491, Nov. 15, 1996; 62 FR 47583, Sept. 10, 1997; 64 FR 46595, Aug. 26, 1999]

PARTS 1122–1129 [RESERVED]

Parts 1130–1149—Rate Procedures

PART 1130—INFORMAL COMPLAINTS

Sec.

1130.1 When no damages sought.

1130.2 When damages sought.

AUTHORITY: 49 U.S.C. 721, 13301(f), 14709.

§ 1130.1 When no damages sought.

(a) *Form and content; copies.* Informal complaint may be by letter or other writing and will be serially numbered as filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1111.1(a) and may embrace supporting papers. The original and one copy must be filed with the Board.

(b) *Correspondence handling.* When an informal complaint appears susceptible of informal adjustment, the Board will send a copy or statement of the complaint to each subject of the complaint in an attempt to have it satisfied by correspondence, thereby avoiding the filing of a formal complaint.

(c) *Discontinuance of informal proceeding.* The filing of an informal complaint does not preclude complainant from filing a formal complaint. If a formal complaint is filed, the informal proceeding will be discontinued.

[47 FR 49570, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983; 69 FR 12806, Mar. 18, 2004]

§ 1130.2 When damages sought.

(a) *Actual filing required.* Notification to the Board that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute.

(b) *Content.* An informal complaint seeking damages must be filed within the statutory period, and should identify with reasonable definiteness the involved shipments or transportation services. The complaint should include:

(1) A statement that complainant seeks to recover damages;

(2) The names of each individual seeking damages;

(3) The names and addresses of defendants against which claim is made;

(4) The commodities, the rate applied, the date on which the charges were paid, the names of the parties paying the charges, and, if different,

the names of the parties bearing the charges;

(5) The period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery;

(6) The specific origin and destination points or, where they are numerous, the territorial or rate group of the origin and destination points and, if known, the routes of movement; and

(7) The nature and amount of the injury sustained by each claimant.

(c) *Statement of prior claim.* A complaint filed under paragraph (b) of this section containing a claim which has been the subject of a previous informal or formal complaint must specifically refer to the previous complaint.

(d) *Copies.* The original of an informal complaint seeking damages must be accompanied by a sufficient number of copies to enable the Board to send one to each defendant named.

(e) [Reserved]

(f) *Notification to the parties; six months' rule.* If an informal complaint seeking damages (other than a contested tariff reconciliation petition) cannot be disposed of informally or is denied or withdrawn by complainant, the parties affected will be so notified in writing by the Board. Contested tariff reconciliation petitions either will be granted or denied by the entry of a decision. Unless within six months after the date on which a notice is mailed or a decision is served, a party either files a formal complaint or re-submits its informal complaint on an additional-fact basis, the matter in the complaint or petition will not be reconsidered. The claim will be considered abandoned and no complaint seeking damages on the same cause of action will be accepted unless filed within the statutory period. Any filing or resubmission satisfying the six months' requirement will be considered filed as of the date of the original filing and must specifically refer to that date and to the Board's file number. An original and 10 copies of a petition for reconsideration should be filed.

(g) *Tariff reconciliation proceedings for motor common carriers—(1) Petitions to waive collection or permit payment.* Subject to Board review and approval,

motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims under the provisions of 49 U.S.C. 14709. Petitions for appropriate authority may be filed by either the carrier, shipper or consignee on the Board's tariff reconciliation docket by submitting a letter of intent to depart from the filed rate. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the Office of Compliance and Enforcement, Surface Transportation Board, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

(i) The name(s) and address(es) of the payer(s) of the freight charges;

(ii) The name(s) of the carrier(s) involved in the traffic;

(iii) An estimate of the amount(s) involved;

(iv) The time period when the shipment(s) involved were delivered or tendered for delivery;

(v) A general description of the point(s) of origin and destination of the shipment(s);

(vi) A general description of the commodity(ies) transported;

(vii) A statement certifying that the carrier(s) and shipper(s) participating in the shipment(s) or the payer(s) of the freight charges concur(s) with the intent to depart from the filed rate; and

(viii) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party that files the petition and will be made available by the Board for public inspection in the Office of Compliance and Enforcement Public File, Surface Transportation Board, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Office of Compliance and Enforcement within 30 days of Board receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall

clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition. The Board may initiate an investigation of the petition on its own motion.

(3) *Uncontested petitions.* If a petition is not contested, and if the Board does not initiate an investigation of the petition on its own motion, approval is deemed granted without further action by the Board, effective 45 days after Board receipt of the petition.

(4) *Contested petitions.* If a petition is contested or the Board initiates an investigation of the petition on its own motion, 15 days will be allowed for reply. The 15-day period will commence on the date of service of the objections or, if the Board initiates an investigation on its own motion, on the date of service of the decision initiating the investigation. After the period for reply has expired, the Board will issue a decision approving or disapproving the petition, or requesting further submissions from the parties, and then will issue a decision based on the further submissions.

[47 FR 49570, Nov. 1, 1982, as amended at 50 FR 15901, Apr. 23, 1985; 51 FR 5713, Feb. 18, 1986; 52 FR 26479, July 15, 1987; 53 FR 19301, May 27, 1988; 60 FR 2544, Jan. 10, 1995; 62 FR 50884, Sept. 29, 1997]

PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATE-MAKING ACTIONS

Sec.

1132.1 Protests against collective ratemaking actions.

1132.2 Procedures in certain suspension matters.

AUTHORITY: 49 U.S.C. 721, 13301(f), and 13703.

SOURCE: 62 FR 50885, Sept. 29, 1997, unless otherwise noted.

§ 1132.1 Protests against collective ratemaking actions.

(a) *Content.* The protested collective ratemaking action sought to be suspended, whether or not contained in a tariff filed with the Board, should be identified by making reference to: The name of the publishing carrier or collective ratemaking organization; the identification of the tariff, if applica-

ble, or the identification of the collective ratemaking action publication if it is not contained in a tariff filed with the Board; the specific items or particular provisions protested; and the effective date of the tariff or other collective ratemaking action publication. Reference should also be made to the tariff or collective ratemaking action, and the specific provisions proposed to be superseded. The protest should state the grounds in support thereof, and indicate in what respect the protested collective ratemaking action is considered to be unlawful. Such protests will be considered as addressed to the discretion of the Board. Should a protestant desire to proceed further against a collective ratemaking action which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, collective ratemaking actions will not be considered unless made in writing and filed with the Board at Washington, DC. If the protestant desires action by the Board before the effective date of the collective action, protests and requests for suspension shall reach the Board at least 12 days (except as provided in paragraph (c) of this section) before such effective date. If the protested collective ratemaking action is already in effect, or if the protestant does not desire action before its effective date, protests and requests for suspension can be filed at any time.

(c) *Motor carrier tariff bureau filings.* When motor common carrier tariff bureaus take collective actions subject to the special procedures adopted in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 340 I.C.C. 1 (1971), and set forth at 49 CFR part 1139, protests must reach the Board at least 22 days before the effective dates of those actions if protestants desire action by the Board before such effective dates. All statements should be served by express mail or an equivalent expedited delivery service upon any party undertaking to bear the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Board.